

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

SUBCHAPTER 1

RECREATION

ADMINISTRATION

PART 701

RECREATION AND CULTURAL ARTS

324.70101 Recreation and cultural arts section; establishment.

Sec. 70101. There is established a state recreation and cultural arts section in the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70102 Head of section; qualifications.

Sec. 70102. The head of the state recreation and cultural arts section shall be a person widely experienced in community recreation and shall be directly responsible to a deputy director.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70103 Technical advice and guidance; duty to collect and disseminate data and information; other duties.

Sec. 70103. The state recreation and cultural arts section shall provide technical advice and guidance to the political subdivisions of this state and other interested groups and agencies in the planning and development of recreation programs, areas, and facilities including but not limited to creative and cultural activities, and programs for senior citizens, persons with disabilities, and the culturally deprived. The section shall collect and disseminate necessary data and information relating to its duties and shall maintain a cooperative relationship with the tourist, resort, and educational extension services of the universities, the Michigan travel commission, Michigan's 4 regional tourist associations, and the various federal agencies.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 86, Imd. Eff. May 13, 1998.

Popular name: Act 451

Popular name: NREPA

324.70104 Representation of citizen interest, need, and participation.

Sec. 70104. The department shall provide continual representation of citizen interest, need, and participation in a wide variety of leisure-time pursuits.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70105 Existing employees; reassignment.

Sec. 70105. The department may reassign existing employees of the department of natural resources or employ staff necessary to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70106 Rules.

Sec. 70106. The department shall promulgate rules necessary for the establishment and implementation of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 703

OUTDOOR RECREATION

324.70301 Outdoor recreation; comprehensive plan.

Sec. 70301. The department is authorized to prepare, maintain, and keep up-to-date a comprehensive plan for the development of the outdoor recreation resources of the state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70302 Federal aid programs.

Sec. 70302. The department may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program respecting outdoor recreation. The department may enter into contracts and agreements with the United States or any appropriate agency of the United States, keep financial and other records relating to those contracts and agreements, and furnish to appropriate officials and agencies of the United States reports and information as may be reasonably necessary to enable the officials and agencies to perform their duties under the programs. In connection with obtaining the benefits of any such program, the department shall coordinate its activities with and represent the interests of all agencies and subdivisions of the state having interests in the planning, development, and maintenance of outdoor recreation resources and facilities.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70303 Federal aid programs; federal land and water conservation fund; disposition and apportionment of funds.

Sec. 70303. Grants-in-aid received from the land and water conservation fund act of 1965, Public Law 88-578, 78 Stat. 897, shall be deposited in the state treasury and disbursed to agencies and subdivisions of the state upon authorization of the department. In the apportionment of funds to subdivisions of the state, the department shall give special consideration to those subdivisions where population density and land and facility needs are greatest.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70304 Federal land programs; appropriations; agreements on behalf of state subdivisions.

Sec. 70304. The department shall not make a commitment or enter into an agreement pursuant to an exercise of authority under this part until the legislature has appropriated sufficient funds to it for meeting the state's share, if any, of project costs. It is the legislative intent that, to the extent necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under this part, those areas and facilities shall be publicly maintained for outdoor recreation purposes. The department may enter into and administer agreements with the United States or any appropriate agency of the United States for planning, acquisition, and development projects involving participating federal-aid funds on behalf of any subdivision of this state, if the subdivision gives necessary assurances to the department that it has available sufficient funds to meet its share, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the subdivision's expense for public outdoor recreation use.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.70305 State assistance to subdivisions; guidelines and limits on state payments.

Sec. 70305. The department is authorized to disburse state appropriated grants-in-aid to political subdivisions of the state to be used in conjunction with the land and water conservation fund act of 1965, Public Law 88-578, 78 Stat. 897, which provides financial assistance for outdoor recreation. The criteria for project approval established for federal cost-sharing under the various federal grants-in-aid programs shall be used as guidelines in allocating state grants-in-aid to political subdivisions of the state. The state's share of the cost of a particular project shall not exceed 25% of the total cost. Total state grants-in-aid under this part

during any fiscal year shall not exceed the amount specifically appropriated for that purpose by the legislature.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 711 RECREATION IMPROVEMENT ACCOUNT

324.71101 Definitions.

Sec. 71101. As used in this part:

(a) "Associated facilities" means restrooms, shelters, campgrounds, and parking lots directly related to trails or waterways projects.

(b) "Off-road vehicle" means ORV as it is defined in part 811, which is required to be registered under part 811.

(c) "Off-road vehicle account" means the off-road vehicle account of the Michigan conservation and recreation legacy fund provided for in section 2015.

(d) "Recreation improvement account" means the recreation improvement account of the Michigan conservation and recreation legacy fund provided for in section 2020.

(e) "Recreational projects" means, in addition to the activities provided for in this part, the construction, maintenance, and operation of trails and associated facilities that may be used by off-road vehicles, cross-country skiers, horseback riders, and hikers, and inland lake cleanup grants as provided by part 309.

(f) "Snowmobile account" means the snowmobile account of the Michigan conservation and recreation legacy fund provided for in section 2025.

(g) "Vessel" means all watercraft except the following:

(i) Watercraft used for commercial fishing.

(ii) Watercraft used by the sea scout department of the boy scouts of America chiefly for training scouts in seamanship.

(iii) Watercraft owned by this state, any political subdivision of this state, or the federal government.

(iv) Watercraft when used in interstate or foreign commerce and watercraft used or owned by any railroad company or railroad car ferry company.

(v) Watercraft when used in trade, including watercraft when used in connection with an activity that constitutes a person's chief business or means of livelihood.

(h) "Watercraft" means any contrivance that is used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat, but does not include watercraft used or owned by the United States.

(i) "Waterways account" means the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.71102 Privilege tax; imposition; payment; inapplicable to liquefied petroleum gas.

Sec. 71102. (1) There is a privilege tax imposed on all gasoline and diesel fuel sold in this state that is used to generate power for the operation or propulsion of vessels on the waterways of this state, of off-road vehicles, and of snowmobiles.

(2) The privilege tax imposed on gasoline and undyed diesel fuel shall be paid to the department of treasury in the same manner, at the same time, and at the same rate per gallon as the tax levied under the motor fuel tax act. The privilege tax imposed on dyed diesel fuel shall be paid to the department of treasury by the retail distributor or other person who sells the dyed diesel fuel to a person who uses the fuel to generate power for the operation or propulsion of vessels on the waterways of this state, of off-road vehicles, and of snowmobiles. The privilege tax imposed by this section shall not apply to liquefied petroleum gas.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2000, Act 405, Imd. Eff. Jan. 8, 2001.

Popular name: Act 451

Popular name: NREPA

324.71103 Legislative finding; joint report.

Sec. 71103. (1) The legislature finds that 2.0% of all of the gasoline sold in this state for consumption in internal combustion engines is used to generate power for the operation or propulsion of vessels on the waterways of this state, of off-road vehicles, and of snowmobiles.

(2) The department and the state transportation department shall prepare a joint report to the legislature by January 1, 1992, providing their estimate of actual gasoline and diesel fuel usage based on any data collected from March 30, 1988 to January 1, 1991 and their observation of the historical trends of gasoline and diesel fuel usage in this state for the following categories:

- (a) Off-road vehicles.
- (b) Watercraft.
- (c) Snowmobiles.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71104 Tax refund; claim; invoice; payment; false statement; forfeiture; misdemeanor.

Sec. 71104. (1) The purchaser of gasoline or diesel fuel for the operation of vessels excepted by section 71101 is entitled to a refund of tax paid on that gasoline or diesel fuel, upon filing a sworn claim with the department of treasury, upon forms prescribed and furnished by it, within 6 months from the date of purchase, as shown by the invoice. The retail distributor shall furnish a purchaser with an invoice showing the amount of gasoline or diesel fuel purchased, the date of the purchase, and the total amount of tax paid on the purchase. Each dealer or distributor shall keep a copy of the invoices issued for a period of 2 years subject to examination by the department of treasury. Each claim for refund shall have attached to the claim the original invoice received by the purchaser and, when approved by the department of treasury, the claims shall be paid out of the state waterways fund upon warrant of the department of treasury.

(2) A person who makes a false statement in a claim or invoice presented to the department of treasury, or who presents to the department of treasury a claim or invoice containing a false statement, or who collects or causes to be paid to the person or any other person a refund without being entitled to the refund, shall forfeit the full amount of the claim and is guilty of a misdemeanor.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1996, Act 585, Eff. Mar. 1, 1997.

Popular name: Act 451

Popular name: NREPA

324.71105 Repealed. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: The repealed section pertained to creation of recreation improvement fund.

Popular name: Act 451

Popular name: NREPA

324.71106 Total of taxes collected; determining revenue derived.

Sec. 71106. The department of treasury shall annually present to the department an accurate total of all the gasoline taxes collected and shall determine the amount of revenue derived from them. The department of treasury shall determine the portion of these revenues derived from the sale of gasoline as described in section 71102 by multiplying the total by 2.0% and shall credit this amount to the recreation improvement account, less a deduction for collection costs and refunds.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.71107 Repealed. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: The repealed section pertained to carrying over money remaining in recreation improvement fund.

Popular name: Act 451

Popular name: NREPA

324.71108 Annual review and recommendations; distribution and use of account.

Sec. 71108. (1) The state treasurer shall annually review and make recommendations to the legislature on the distributions of the recreation improvement account, including recreational projects and geographic locations.

(2) Money in the recreation improvement account shall be distributed as follows:

(a) Eighty percent of the money shall be annually transferred to the waterways account.

(b) Fourteen percent of the money shall be annually transferred to the snowmobile account.

(c) The remainder of the money that is not transferred under subdivisions (a) and (b) shall be used, upon appropriation, for recreation projects and for the administration of the recreation improvement account. Of the money credited to recreational projects in a fiscal year, not less than 25% shall be expended on projects to repair damages as a result of pollution, impairment, or destruction of air, water, or other natural resources, or the public trust in air, water, or other natural resources, as a result of the use of off-road vehicles.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

PART 713

RECREATION BOND AUTHORIZATION

324.71301 Bonds; authorization; limitation; purpose.

Sec. 71301. The state shall borrow a sum not to exceed \$140,000,000.00 and issue the general obligation bonds of this state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, to finance state and local public recreation projects.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71302 Bonds; conditions, methods, and procedures.

Sec. 71302. Bonds shall be issued in accordance with conditions, methods, and procedures established by law.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71303 Bonds; disposition of proceeds and interest.

Sec. 71303. The proceeds of the sale of the bonds or any series of the bonds, any premium and accrued interest received on the delivery of the bonds, and any interest earned on the proceeds of the bonds shall be deposited in the state treasury and credited to the recreation bond fund created in part 715 and shall be disbursed from that fund only for the purposes for which the bonds have been authorized, including the expense of issuing the bonds. The proceeds of the sale of the bonds or any series of the bonds, any premium and accrued interest received on the delivery of the bonds, and any interest earned on the proceeds of the bonds shall be expended for the purposes set forth in this part in a manner as provided by law.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71304 Submission of question to electors.

Sec. 71304. The question of borrowing a sum not to exceed \$140,000,000.00 and the issuance of the general obligation bonds of the state for the purposes set forth in this part shall be submitted to a vote of the electors of the state qualified to vote on the question in accordance with section 15 of article IX of the state constitution of 1963, at the next general election following September 9, 1988. The question submitted to the electors shall be substantially as follows:

"Shall the state of Michigan borrow a sum not to exceed \$140,000,000.00 and issue general obligation bonds of the state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, to finance state and local public recreation projects, the method of repayment of the bonds to be from

the general fund of this state?

Yes.....

No..... ”.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71305 Duties of secretary of state.

Sec. 71305. The secretary of state shall perform all acts necessary to properly submit the question prescribed by section 71304 to the electors of this state qualified to vote on the question at the next general November election following September 9, 1988.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71306 Appropriation; purpose; executive budget recommendations.

Sec. 71306. (1) After the issuance of the bonds authorized by this part, there shall be appropriated from the general fund of the state each fiscal year a sufficient amount to pay promptly, when due, the principal of and interest on all outstanding bonds authorized by this part and the costs incidental to the payment of the bonds.

(2) The governor shall include the appropriation provided in subsection (1) in his or her annual executive budget recommendations to the legislature.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71307 Majority vote of electors required.

Sec. 71307. Bonds shall not be issued unless the question set forth in section 71304 is approved by a majority vote of the qualified electors voting on the question.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 715

RECREATION BOND IMPLEMENTATION

324.71501 Definitions.

Sec. 71501. As used in this part:

(a) “Bonds” means the bonds issued under part 713 or former Act No. 327 of the Public Acts of 1988.

(b) “Fund” means the recreation bond fund created in section 71506.

(c) “Local public recreation project” means capital improvement projects including, but not limited to, the construction, expansion, development, or rehabilitation of recreational facilities, and the restoration of the natural environment. Local public recreation project does not include the operation, maintenance, or administration of those facilities, wages, or administration of projects or purchase of facilities already dedicated to public recreational purposes.

(d) “Local unit of government” means a county, city, township, village, school district, the Huron-Clinton metropolitan authority, or any authority composed of counties, cities, townships, villages, or school districts, or any combination of those entities, which authority is legally constituted to provide public recreation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71502 Legislative finding and declaration.

Sec. 71502. The legislature finds and declares that the construction, expansion, development, and rehabilitation of state and local recreational facilities and the restoration of the natural environment under this part are a public purpose in the interest of the health, safety, and general welfare of the citizens of this state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71503 Bonds; requirements generally.

Sec. 71503. (1) The bonds issued under part 713 shall be issued in 1 or more series, each series to be in a principal amount, to be dated, to have the maturities that may be either serial, term, or term and serial, to bear interest at a rate or rates, to be subject or not subject to prior redemption and, if subject to prior redemption, with or without call premiums, to be payable at a place or places, to have or not have provisions for registration as to principal only or as to both principal and interest, to be in a form and to be executed in a manner as shall be determined by resolution to be adopted by the state administrative board, and to be subject to or granting those covenants, directions, restrictions, or rights specified by resolution to be adopted by the state administrative board as necessary to ensure the marketability, insurability, or tax-exempt status. The state administrative board shall rotate legal counsel when issuing bonds.

(2) The state administrative board may refund bonds issued under this part by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption. The state administrative board may issue bonds to partly refund bonds issued under this part and partly for any other purpose provided by this part. The principal amount of any refunding bonds issued under this section shall not be counted against the limitation on principal amount imposed by the vote of the people on November 8, 1988. Further, refunding bonds issued under this section shall not be subject to the restrictions of section 71507.

(3) The state administrative board may authorize and approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued under this act.

(4) The state administrative board may authorize the state treasurer, but only within limitations that are contained in the authorizing resolution of the board, to do 1 or more of the following:

- (a) Sell and deliver and receive payment of the bonds.
- (b) Deliver bonds partly to refund bonds and partly for other authorized purposes.
- (c) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.
- (d) Buy bonds so issued at not more than their face value.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, purchase prices, purchase dates, remarketing dates, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state or the owner, the place and time of delivery and payment, and other matters and procedures necessary to complete the authorized transactions.

(f) Execute, deliver, and pay the cost of remarketing agreements, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds or notes, and any other transaction to provide security to assure timely payments or purchase of any bond issued under this part.

(5) The bonds are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) The bonds or any series of the bonds shall be sold at a price and at a publicly advertised sale or a competitively negotiated sale as determined by the state administrative board. If bonds are issued at a competitively negotiated sale, the state administrative board shall use its best efforts to include firms based in this state in the sale of the bonds.

(7) Except as provided in subsection (8), the bonds shall be sold in accordance with the following schedule, beginning during the first year after December 1, 1988:

- (a) Not more than 34% shall be sold during the first year.
- (b) Not more than 33% shall be sold during the second year.
- (c) Not more than 33% shall be sold during the third year.
- (d) After the third year any remaining bonds may be sold at the discretion of the state administrative board.

(8) The state administrative board may alter the schedule for issuance of the bonds provided in subsection (7) if amendments to the internal revenue code of 1986 would impair the tax-exempt status of the bonds.

(9) The issuance of bonds and notes under this section is subject to the agency financing reporting act.

(10) For the purpose of more effectively managing its debt service, the state administrative board may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the state administrative board.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1995, Act 72, Imd. Eff. June 6, 1995;—Am. 2002, Act 388, Imd. Eff. May 30, 2002.

Popular name: Act 451

Popular name: NREPA

324.71504 Bonds negotiable; tax exemption.

Sec. 71504. Bonds issued under part 713 shall be fully negotiable under the uniform commercial code, Act No. 174 of the Public Acts of 1962, being sections 440.1101 to 440.1102 of the Michigan Compiled Laws. The bonds and the interest on the bonds shall be exempt from all taxation by the state or any political subdivision of the state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71505 Bonds as securities.

Sec. 71505. Bonds issued under part 713 are made securities in which banks, savings and loan associations, investment companies, credit unions, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all administrators, executors, guardians, trustees, and other fiduciaries may properly and legally invest funds, including capital, belonging to them or within their control.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71506 Recreation bond fund; creation; composition; restricted subaccounts.

Sec. 71506. (1) The recreation bond fund is created in the state treasury.

(2) The fund shall consist of all of the following:

(a) The proceeds of sales of general obligation bonds issued pursuant to part 713 and any premium and accrued interest received on the delivery of the bonds.

(b) Any interest or earnings generated by the proceeds described in subdivision (a).

(c) Any repayments of principal and interest made under a loan program authorized for in this part.

(d) Any federal funds received.

(3) The department of treasury may establish restricted subaccounts within the fund as necessary to administer the fund.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71507 Disposition of bond proceeds; investment of fund; allocation of interest and earnings; crediting and use of repayments of principal and interest; disposition of unencumbered balance; submission and contents of list of projects; appropriations; report.

Sec. 71507. (1) The proceeds of the bonds issued under part 713 shall be deposited into the fund.

(2) The state treasurer shall direct the investment of the fund. Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest paid on the bonds or to comply with state or federal law, interest and earnings from investment of the proceeds of any bond issue shall be allocated in the same proportion as earned on the investment of the proceeds of the bond issue.

(3) Except as otherwise may be required by the resolution authorizing the issuance of the bonds in order to maintain the exclusion from gross income of the interest paid on the bonds or to comply with state or federal law, all repayments of principal and interest earned under a loan program provided in this part shall be credited to the appropriate restricted subaccounts of the fund and used for the purposes authorized for the use of bond proceeds deposited in that subaccount or to pay debt service on any obligation issued which pledges the loan repayments and the proceeds of which are deposited in that subaccount.

(4) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(5) The department shall annually submit to the governor, the committees of the house of representatives and the senate with jurisdiction pertaining primarily to natural resources and the environment, and the appropriations committees of the house of representatives and the senate a list of all projects that are recommended to be funded under this part. This list shall be submitted to the legislature not later than February 15 of each year. This list shall also be submitted before any request for supplemental appropriation of bond funds. The list shall include the name, address, and telephone number of the eligible recipient or

participant; the nature of the eligible project; the county in which the eligible project is located; an estimate of the total cost of the eligible project; and other information considered pertinent by the department. The estimated cost of eligible local public recreation projects on the list for each year in which there is a limitation on borrowing under section 71503(5) shall not exceed 1/3 of the amount authorized for local public recreation projects under section 71508(1)(b) and (c).

(6) The legislature shall appropriate prospective or actual bond proceeds for projects proposed to be funded. Appropriations shall be carried over to succeeding fiscal years until the project for which the funds are appropriated is completed.

(7) Not later than December 31 of each year, the department shall report to the governor, the committees of the house of representatives and the senate with jurisdiction pertaining primarily to natural resources and the environment, and the committees of the house of representatives and the senate on appropriations for the department a list of the projects financed under this part. The list shall include the name, address, and telephone number of the recipient or participant; the nature of the project; the amount of money received; the county in which the project is located; and other information considered pertinent by the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71508 Use of fund generally.

Sec. 71508. (1) Except as otherwise provided in this section, money in the fund shall be used as follows:

(a) \$70,000,000.00 of the bond revenues shall be used to construct, expand, and develop recreational facilities at state parks pursuant to the "5 year capital outlay program" published by the department and approved by the commission, and for other state recreation facilities for which matching funds are available. The department may deviate from the uses of the bond revenues provided in this subdivision only upon recommendation of the commission and approval of the legislature.

(b) \$65,000,000.00 of the bond revenues shall be used to provide grants and loans to local units of government for local public recreation projects pursuant to this part.

(c) \$5,000,000.00 of the bond revenues shall be used to provide grants and loans to local units of government for the purpose of discouraging development of open space and undeveloped lands that on December 1, 1988 are not zoned for industrial use. Grants and loans made under this subdivision shall be used to redevelop and reuse vacant manufacturing facilities or abandoned industrial sites for recreational facilities.

(2) Money in the fund that is allocated for local public recreation projects under subsection (1)(b) shall be used for any of the following:

(a) Public recreation infrastructure improvements that involve the replacement of or structural improvements relating specifically to existing public recreation facilities, including, but not limited to, recreation centers, sports fields, beaches, trails, historical structures, playgrounds, and restoration of the natural environment.

(b) The development of public recreation facilities on waterfront sites for the purpose of increasing recreation opportunities that encourage further private investments in the area. Public recreation facilities on waterfront sites shall include, but shall not be limited to, shoreline stabilization and beautification, breakwaters, bulkheads, fishing piers, amphitheaters, shoreline walkways, and pedestrian bridges.

(c) The construction of community public recreation facilities for the purpose of addressing the recreational needs of local residents, including, but not limited to, playgrounds, sports fields and courts, community and senior centers, and fishing sites.

(d) The development of public recreation improvements that will attract tourists or otherwise increase tourism, where such developments are reasonably expected to have a substantial positive impact, relative to cost, on the local, regional, or state economy, including, but not limited to, campgrounds, beaches, historical sites, fishing access sites, and recreational development of abandoned railroad rights-of-way.

(e) Intermediate school districts for environmental education capital outlay projects that are consistent with the long-term recreation and parks plan for the local unit or units of government which the intermediate school district serves.

(3) Money in the fund for other state recreation purposes shall be used for infrastructure projects for fisheries, wildlife, recreational boating, or state forest campgrounds, for which not less than 50% of the cost of the project is available from any combination of federal, private, or restricted funds.

(4) Money in the fund shall not be used for land acquisition.

(5) Money in the fund shall not be expended for sports facilities, arenas, or stadiums intended as the primary home of a professional sports team, for commercial theme parks, or for any purpose that may result in the siting of casino gambling in this state.

(6) Money in the fund may be used by the department of treasury to pay for the cost of issuing bonds under part 713 and by the department to pay department costs as provided in this subsection. Not more than 3% of the total amount specified in this section shall be available for appropriation to the department to pay department costs directly associated with the completion of a project described in subsection (1)(a), (b), or (c) for which bonds are issued as provided under this part. Bond proceeds shall not be available to pay indirect, administrative overhead costs incurred by any organizational unit of the department not directly responsible for the completion of a project. Department costs shall be deducted proportionately from the amounts stated in subsection (1). It is the intent of the legislature that general fund appropriations to the department shall not be reduced as a result of department costs funded pursuant to this subsection.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71509 Making and allocating grants and loans to local units of government; division of state into regions; match by local unit; rules; sale, disposal, or use of facility.

Sec. 71509. (1) Grants and loans made to local units of government under section 71508(1)(b) shall be made by the department and allocated as follows:

(a) Each region provided for in subsection (2) shall receive \$6.50 per capita based upon the 1985 census figures in the document entitled “estimated state spending by county fiscal year 1985-86” published by the senate fiscal agency, dated October, 1987.

(b) The balance of the money remaining after the distribution under subdivision (a) shall be used for local public recreation projects that are regional parks as defined by rules promulgated by the department. An application under this subdivision shall not preclude an application under subdivision (a).

(2) For purposes of the distribution of grants and loans for local public recreation projects under section 71508(1)(b), the state is divided into the following 3 regions:

(a) Region 1—all of the counties of the Upper Peninsula.

(b) Region 2—Emmet, Charlevoix, Cheboygan, Presque Isle, Leelanau, Antrim, Otsego, Montmorency, Alpena, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford, Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Isabella, Midland, Bay, Huron, Saginaw, Tuscola, and Sanilac counties.

(c) Region 3—Oceana, Newaygo, Mecosta, Muskegon, Montcalm, Gratiot, Ottawa, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, St. Clair, Allegan, Barry, Eaton, Ingham, Livingston, Oakland, Macomb, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Wayne, Berrien, Cass, St. Joseph, Branch, Hillsdale, Lenawee, and Monroe counties.

(3) A grant made under this part to a local unit of government shall require a 25% match by the local unit of government. Not more than 50% of the local unit of government's contribution under this subsection may be in the form of goods and services directly rendered to the construction of the project, or federal funds, or both. A local unit of government shall establish to the satisfaction of the department the cost or fair market value, whichever is less as of the date of the notice of approval by the department, of any of the above items with which it seeks to meet its local unit portion.

(4) The department shall promulgate rules that establish criteria for grants and loans made under this part, an application process, the definition of regional parks, and a process for disbursement of grants and loans to local units of government.

(5) A facility funded under this section shall not be sold, disposed of, or converted to a use not specified in the application for the grant or loan without express approval of the department.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71510 Grant or loan program; rules; maximum participation; considerations in determining appropriateness of grant or loan program; considerations in making grant or loan.

Sec. 71510. (1) The department shall assure maximum participation by local units of government by promulgating rules that provide for a grant or loan program, where appropriate. In determining whether a grant or a loan program is appropriate, the department shall consider whether the project is likely to be undertaken without state assistance; the availability of state funds from other sources; the degree of private sector participation in the type of project under consideration; the extent of the need for the project as a

demonstration project; and other factors considered important by the department.

(2) Prior to making a grant or loan authorized by this part, the department shall consider the extent to which the making of the grant or loan contributes to the achievement of a balanced distribution of grants and loans throughout the state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71511 Application for grant or loan; form; information.

Sec. 71511. An application for a grant or a loan authorized under this part shall be made on a form prescribed by the department. The department may require the applicant to provide any information reasonably necessary to allow the department to make determinations required by this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71512 Conditions to making grant or loan.

Sec. 71512. The department shall not make a grant or a loan under this part unless all of the following conditions are met:

(a) The applicant demonstrates that the proposed project is in compliance with all applicable state laws and rules.

(b) The applicant demonstrates to the department the capability to implement the proposed project.

(c) The applicant provides the department with evidence that a licensed professional engineer has approved the plans and specifications for the project, if appropriate.

(d) The applicant demonstrates to the department that there is an identifiable source of funds for the maintenance and operation of the proposed project.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71513 Recipient of grant or loan; duties; noncompliance; recovery of grant; withholding grant or loan.

Sec. 71513. (1) A recipient of a grant or a loan made under this part shall be subject to all of the following:

(a) A recipient shall keep an accounting of the money spent on the project or facility in a generally accepted manner. The accounting shall be subject to a postaudit.

(b) A recipient shall obtain authorization from the department before implementing a change that significantly alters the proposed project or facility.

(2) The department may revoke a grant or a loan made by it under this part or withhold payment if the recipient fails to comply with the terms and conditions of the grant or loan or with the requirements of this part or the rules promulgated under this part.

(3) The department may recover a grant if the project for which the grant was made never operates.

(4) The department may withhold a grant or a loan until the department determines that the recipient is able to proceed with the proposed project or facility.

(5) To assure timely completion of a project, the department may withhold 10% of the grant or loan amount until the project is complete.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.71514 Rules generally.

Sec. 71514. The department shall promulgate rules as are necessary or required to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 716

LOCAL RECREATION GRANTS

324.71601 Definitions.

Sec. 71601. As used in this part:

(a) "Community recreation plan" means a 5-year, comprehensive recreation plan for a given local unit of government, approval of which is required by the department for participation in the land and water conservation fund program pursuant to the land and water conservation fund act of 1965, public law 88-578, 78 Stat. 897, and the Michigan natural resources trust fund grant program under part 19.

(b) "Department" means the department of natural resources.

(c) "Director" means the director of the department.

(d) "Grant" means a local recreation grant under this part.

(e) "Infrastructure improvement" means restoration of the natural environment or the renovation, repair, replacement, upgrading, or structural improvement of an existing facility that is not less than 15 years old, including any of the following:

(i) Recreation centers.

(ii) Sports fields.

(iii) Beaches.

(iv) Trails.

(v) Playgrounds.

(f) "Local recreation project" means capital improvement projects including, but not limited to, the construction, expansion, development, or rehabilitation of recreational facilities. Local recreation project does not include the operation, maintenance, or administration of those facilities, wages, or administration of projects or purchase of facilities already dedicated to public recreational purposes.

(g) "Local unit of government" means a county, city, township, village, the Huron-Clinton metropolitan authority, or any authority composed of counties, cities, townships, villages, or any combination of those entities, which authority is legally constituted to provide public recreation.

(h) "Regional park" means a public recreation site that is under the applicant's control and that is in compliance with all of the following requirements as determined by the department:

(i) The site does now, or will, attract not less than 25% of its users from areas in the region that are 30 minutes or more driving time from the site.

(ii) The site provides passive, water-based, and active recreation opportunities.

(iii) The site is contiguous to, or encompasses, a natural resource feature.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.71602 Local recreation grant program; establishment; provisions; prohibitions.

Sec. 71602. (1) The department shall establish a local recreation grant program. The grant program shall provide grants to local units of government for local recreation projects that provide for 1 or more of the following:

(a) Public recreation infrastructure improvements that involve the replacement of or structural improvements relating specifically to existing public recreation facilities, including, but not limited to, recreation centers, sports fields, beaches, trails, playgrounds, skating rinks, toboggan runs, sledding hills, and park support facilities.

(b) The construction of community public recreation facilities for the purpose of addressing the recreational needs of local residents, including, but not limited to, playgrounds, sports fields and courts, community and senior centers, picnic facilities, nature centers, nonmotorized trails and walkways, amphitheaters, and fishing piers and fishing access sites.

(c) The development of public recreation improvements that will attract tourists or otherwise increase tourism, where such developments are reasonably expected to have a substantial positive impact, relative to cost, on the local, regional, or state economy, including, but not limited to, campgrounds, beaches, and fishing access sites.

(2) A grant shall not be provided under this part for land acquisition or a commercial theme park.

(3) A grant shall not be provided under this part for a project that is located at any of the following:

(a) Land sited for use as a gaming facility or as a stadium or arena for use by a professional sports team.

(b) Land or other facilities owned or operated by a gaming facility or by a stadium or arena for use by a professional sports team.

(c) Land within a project area described in a project plan pursuant to the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, for a gaming facility.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.71603 Allocations to local units of government; zones; purposes; matching requirements; sale, disposal, or conversion of facility.

Sec. 71603. (1) Subject to amounts appropriated to the department under section 19608(5), the total amount of grants made to local units of government under this part shall be allocated as follows:

- (a) Local recreation projects within zone 1..... 3.6%
- (b) Local recreation projects within zone 2..... 14.4%
- (c) Local recreation projects within zone 3..... 72%
- (d) Local recreation projects at regional parks..... 10%

(2) For purposes of the distribution of grants for local recreation projects under this part, the state is divided into the following 3 zones:

(a) Zone 1—all of the counties of the Upper Peninsula.

(b) Zone 2—Emmet, Charlevoix, Cheboygan, Presque Isle, Leelanau, Antrim, Otsego, Montmorency, Alpena, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford, Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Isabella, Midland, Bay, Huron, Saginaw, Tuscola, and Sanilac counties.

(c) Zone 3—Oceana, Newaygo, Mecosta, Muskegon, Montcalm, Gratiot, Ottawa, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, St. Clair, Allegan, Barry, Eaton, Ingham, Livingston, Oakland, Macomb, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Wayne, Berrien, Cass, St. Joseph, Branch, Hillsdale, Lenawee, and Monroe counties.

(3) A grant made under this part to a local unit of government shall require a 25% match by the local unit of government. Not more than 50% of the local unit of government's contribution under this subsection may be in the form of goods and services directly rendered to the construction of the project, or federal funds, or both. A local unit of government shall establish to the satisfaction of the department the cost or fair market value, whichever is less as of the date of the notice of approval by the department, of any such goods and services with which the local unit of government seeks to meet the match requirement.

(4) A facility funded under this section shall not be sold, disposed of, or converted to a use not specified in the application for the grant without express approval of the department.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.71604 Project funding; conditions.

Sec. 71604. The department shall consider a project application for funding under this part if it is in compliance with all of the following conditions:

- (a) The application is submitted by the deadline established by the department.
- (b) The application is complete and submitted on the form required by the department.
- (c) The application includes the following information:
 - (i) An 8-1/2-inch by 11-inch project location map.
 - (ii) An 8-1/2-inch by 11-inch preliminary site development plan.
 - (iii) Preliminary floor plans and elevation drawings for any building construction.
- (iv) A certified resolution from the governing body of the local unit of government stating that the proposal will be undertaken if a grant is awarded and designating an authorized project representative.
- (v) Evidence and results of a preannounced public meeting on the application proposal.
- (vi) A brief description of the project proposal.
- (vii) The total cost of the project proposal and the amount of grant requested.
- (viii) Sources of the local match.
- (ix) A breakdown of development items and their projected costs.
- (x) A narrative, limited to 1 page, of what the proposal is and why it is needed.
- (xi) Attestation, by signature of an authorized project representative, that all statements on the application form are true, complete, and accurate to the best of the representative's knowledge.
- (xii) Other information as determined by the department.

(d) The local unit of government has an approved community recreation plan on file with the department. Department-approved plans are valid through December 31 of the fifth full calendar year after adoption by the local unit's governing body.

(e) The project for which funding assistance is sought is listed and justified in the local unit of government's recreation plan.

(f) The local unit of government has submitted notice of the project application to the regional planning agency for review.

(g) The local unit of government has fee title or a legal instrument that demonstrates property control for not less than 15 years from the date of application. If control is evidenced by less than fee title, the length of control shall be commensurate with the value of the proposed project.

(h) The local unit of government's grant request is not more than \$750,000.00 and not less than \$15,000.00. An applicant may receive more than 1 grant in a funding cycle.

(i) The proposed project addresses at least 1 of the following purposes as described in section 71602:

(i) Infrastructure improvement.

(ii) Community recreation.

(iii) Tourist attraction.

(j) The proposed project is not for the purpose of meeting the physical education and athletic program requirements of a school. Facilities funded under this program on school grounds shall not restrict public use to less than 50% of operating hours. A schedule of when such sites are open to the public may be requested by the department.

(k) The proposed project does not unfairly compete with the private sector. Projects that would create an unfairly competitive situation with private enterprises are not eligible for funding. In situations where privately managed facilities are providing identical or similar recreation opportunities, the local unit of government shall provide written justification of the need for the proposed facility in light of the private sector's presence.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.71605 Final grant awards; determination; factors; ratings; priority; upgrade of drinking water systems or rest room facilities.

Sec. 71605. (1) Final grant awards will be determined by the director.

(2) The department shall use the 3 factors listed in subsection (3)(a), (b), and (c) to evaluate projects. All factors are of equal importance in the evaluation of a project.

(3) Each of the 3 factors listed in subdivisions (a), (b), and (c) shall be rated exceptional, good, or fair. An exceptional rating is equal to a score of 80; a good rating is equal to a score of 60; and a fair rating is equal to a score of 10. The factors are as follows:

(a) The need for the project as determined by an overall assessment of the following:

(i) The merits of the project relative to cost in addressing 1 of the following program priorities as designated by the applicant:

(A) Infrastructure improvement.

(B) Community recreation.

(C) Tourism.

(ii) How well the project meets the following priorities:

(A) Proximity to urban areas.

(B) Attention, beyond the requirements of law, to the needs of special populations, such as minorities, senior citizens, low income individuals, and the handicapped.

(C) Impact on county and regional recreation opportunity deficiencies or identified local recreation deficiencies documented in the community recreation plan.

(b) The capability of the local unit of government to complete the project and to operate and maintain it once completed. Capability will be determined by an overall assessment of all of the following criteria:

(i) Demonstrated satisfactory performance of the local unit of government in other department grant programs.

(ii) Demonstrated ability to operate and maintain existing recreation facilities.

(iii) Assurance of funds for the maintenance and operation of the proposed project.

(iv) Demonstrated commitment to public recreation through recreation staffing and the existence of a citizen recreation board or commission.

(c) The quality of the site and project design. Quality will be determined by an overall assessment of all of the following criteria:

(i) The appropriateness of the site for the intended uses.

(ii) Clarity and detail of the development plans and the quality of the project design in terms of orientation,

spacing of facilities, traffic flow, and effective use of site features.

(iii) The quality of any existing development.

(iv) The adequacy of safety and health considerations.

(v) Evaluation of the impact of proposed development on the natural environment.

(4) If the score on 2 or more projects is the same and does not determine which project should be recommended within available dollars, the department shall consider the following factors to determine priority:

(a) The amount of local recreation grants funds previously received by a local unit of government under this part.

(b) A local unit of government's need for financial assistance. Financial need will be determined by the local unit of government's rank on the distressed communities list.

(c) A local unit of government's commitment to provide more than the required 25% match.

(d) The amount of Michigan natural resources trust fund development grants and land and water conservation grants previously received by the local unit of government.

(5) If a project is determined to be eligible for a grant and the needs at the location of the project include the upgrade of drinking water systems or rest room facilities, the grant award for the project shall first be used for such upgrades at that project location.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.71606 Administration of grants; compliance with requirements of part 196.

Sec. 71606. Grants made under this part are subject to the applicable requirements of part 196. The department shall administer this part in compliance with the applicable requirements of part 196, including the reporting requirements to the legislature of the grants provided under this part.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.71607 Rules.

Sec. 71607. The department may promulgate rules to implement this part.

History: Add. 1998, Act 286, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

TRAILWAYS

PART 721

MICHIGAN TRAILWAYS

324.72101 Definitions.

Sec. 72101. As used in this part:

(a) "Advisory council" means the Michigan trailways advisory council created in section 72110.

(b) "Council" means a Michigan railway management council established pursuant to section 72106.

(c) "Fund" means the Michigan trailways fund created in section 72109.

(d) "Governmental agency" means the federal government, a county, city, village, or township, or a combination of any of these entities.

(e) "Michigan railway" means a railway designated by the commission pursuant to section 72103.

(f) "Rail-trail" means a former railroad bed that is in public ownership and used as a railway.

(g) "Trailway" means a land corridor that features a broad trail capable of accommodating a variety of public recreation uses.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 129, Imd. Eff. Nov. 5, 1997.

Popular name: Act 451

Popular name: NREPA

324.72102 Legislative findings and declaration.

Sec. 72102. The legislature finds and declares that a statewide system of trailways will provide for public enjoyment, health, and fitness; encourage constructive leisure-time activities; protect open space, cultural and

historical resources, and habitat for wildlife and plants; enhance the local and state economies; link communities, parks, and natural resources; create opportunities for rural-urban exchange, agricultural education, and the marketing of farm products; and preserve corridors for possible future use for other public purposes. Therefore, the planning, acquisition, development, operation, and maintenance of Michigan trailways is in the best interest of the state and is declared to be a public purpose.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72103 Designation as trailway; public hearing; establishing and changing permitted uses; revocation of designation.

Sec. 72103. (1) Upon petition by any person or on its own motion, the commission may designate a trailway in this state as a "Michigan trailway". The petition or motion shall propose permitted uses of the trailway. The commission shall not designate a trailway as a Michigan trailway unless it meets, or will meet when completed, all of the following requirements:

(a) The land on which the trailway is located is owned by the state or a governmental agency, or otherwise is under the long-term control of the state or a governmental agency through a lease, easement, or other arrangement. If the land is owned by a governmental agency, the commission shall obtain the consent of the governmental agency before designating the land as part of a Michigan trailway.

(b) The design and maintenance of the trailway and its related facilities meet generally accepted standards of public safety.

(c) The trailway meets appropriate standards for its designated recreation uses.

(d) The trailway is available for designated recreation uses on a nondiscriminatory basis.

(e) The trailway is a multiuse trail suitable for use by pedestrians, by people with disabilities, and by other users, as appropriate.

(f) The trailway is, or has potential to be, a segment of a statewide network of trailways, or it attracts a substantial share of its users from beyond the local area.

(g) The trailway is marked with an official Michigan trailway sign and logo at major access points.

(h) The trailway is not directly attached to a roadway, except at roadway crossings.

(i) Where feasible, the trailway offers adequate support facilities for the public, including parking, sanitary facilities, and emergency telephones, that are accessible to people with disabilities and are at reasonable frequency along the trailway.

(j) Potential negative impacts of trailway development on owners or residents of adjacent property are minimized through all of the following:

(i) Adequate enforcement of trailway rules and regulations.

(ii) Continuation of access for trailway crossings for agricultural and other purposes.

(iii) Construction and maintenance of fencing, where necessary, by the owner or operator of the trailway.

(iv) Other means as considered appropriate by the commission.

(k) Other conditions required by the commission.

(2) The commission shall not designate a trailway a Michigan trailway under subsection (1) unless a public hearing has been held in the vicinity of the proposed Michigan trailway to take testimony and gather public opinion on the proposed designation including, but not limited to, the proposed uses of the trailway and whether or not motorized uses are appropriate for the trailway. The public hearing shall be held at a location and at a time calculated to attract a fair representation of opinions on the designation. A transcript or a summary of the testimony at the public hearing shall be forwarded to the commission.

(3) At the time a Michigan trailway is designated under subsection (1), the commission shall, in consultation with the governmental agencies in which the trailway is located, establish uses to be permitted on the trailway. In establishing permitted uses, the commission shall consider all of the following:

(a) The safety and enjoyment of trailway users.

(b) Impacts on residents, landowners, and businesses adjacent to the trailway.

(c) Applicable local ordinances.

(4) A change in the permitted uses of a Michigan trailway established under subsection (3) relating to whether or not a motorized use is allowed on the trailway shall not be made without approval of the commission after a public hearing held in the same manner as provided in subsection (2).

(5) The commission may revoke a Michigan trailway designation if it determines that a trailway fails to meet the requirements of this section. Before revoking a Michigan trailway designation, the commission shall provide notice to all entities involved in the management of the trailway. If the trailway is brought into compliance with this section within 90 days after providing this notice, the commission shall not revoke the

designation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72104 Designation as railway connector.

Sec. 72104. (1) Upon petition by any person or on its own motion, the commission may designate a railway, bicycle path, sidewalk, road, or other suitable route that does not meet the requirements of this part for a Michigan railway as a “Michigan railway connector” if the connector meets all of the following:

(a) The connector meets appropriate safety standards and appropriate design standards for its designated uses.

(b) The connector connects directly to a Michigan railway.

(c) The public agency having jurisdiction over the connector has consented in writing to the designation.

(d) The connector is marked with an official Michigan railway connector sign and logo at major access points.

(2) An aquatic corridor capable of accommodating watercraft that connects to a Michigan railway may be designated as a Michigan railway connector if it meets the requirements of subsection (1)(a) to (d).

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72105 Operating and maintaining railway; agreement; provisions.

Sec. 72105. The department may operate and maintain a Michigan railway that is located on state owned land or may enter into an agreement with a council or 1 or more governmental agencies to provide for the operation and maintenance of the Michigan railway. An agreement entered into under this subsection may include provisions for any of the following:

(a) Construction, maintenance, and operation of the railway.

(b) Enforcement of railway rules and regulations including permitted uses of the railway.

(c) Other provisions consistent with this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72105a Adopt-a-trail program.

Sec. 72105a. (1) The department shall establish an “adopt-a-trail” program that will allow volunteer groups to assist in maintaining and enhancing Michigan railways and rail-trails.

(2) Subject to subsection (3), volunteer groups in the adopt-a-trail program may adopt any available Michigan railway or rail-trail or Michigan railway or rail-trail segment and may choose any 1 or more of the following volunteer activities:

(a) Spring cleanups.

(b) Environmental activities.

(c) Accessibility projects.

(d) Special events.

(e) Trailway maintenance and development.

(f) Public information and assistance.

(g) Training.

(3) The department shall designate the activities to be performed by a volunteer group in the adopt-a-trail program. The department may provide for more than 1 volunteer group to adopt a Michigan railway or rail-trail or Michigan railway or rail-trail segment.

(4) A volunteer group that wishes to participate in the adopt-a-trail program shall submit an application to the department on a form provided by the department. Additionally, volunteer groups shall agree to the following:

(a) Volunteer groups shall participate in the program for at least a 2-year period.

(b) Volunteer groups shall consist of at least 6 people who are 18 years of age or older, unless the volunteer group is a school or scout organization, in which case the volunteers may be under 18 years of age.

(c) Volunteer groups shall contribute a total of at least 400 service hours over a 2-year period.

(d) Volunteer groups shall comply with other reasonable requirements of the department.

(5) A state park manager or a district forest manager may issue to volunteers who are actively working on

adopt-a-trail projects that last more than 1 day free camping permits if campsites are available. A state park manager or a district forest manager may waive state park entry fees for volunteers entering state parks to work on adopt-a-trail projects.

(6) While a volunteer is working on an adopt-a-trail project, the volunteer has the same immunity from civil liability as a department employee and shall be treated in the same manner as an employee under section 8 of 1964 PA 170, MCL 691.1408.

(7) The department shall design and erect near the entrance of each Michigan railway or rail-trail in the adopt-a-trail program or along the railway an adopt-a-trail program sign with the name of the volunteer group's sponsoring organization listed for each volunteer group that has contributed at least 100 service hours by volunteers.

History: Add. 1997, Act 129, Imd. Eff. Nov. 5, 1997.

Popular name: Act 451

Popular name: NREPA

324.72106 Michigan railway management council; establishment; purpose; adopting operating procedures and electing officers; powers; dissolution.

Sec. 72106. (1) Two or more governmental agencies may establish a Michigan railway management council for the development and management of a Michigan railway pursuant to the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being section 124.501 to 124.512 of the Michigan Compiled Laws.

(2) Upon formation, a council shall adopt operating procedures and shall elect officers as the council considers appropriate.

(3) A council may do 1 or more of the following as authorized in an interlocal agreement entered into pursuant to Act No. 7 of the Public Acts of the Extra Session of 1967:

(a) Operate and maintain that portion of 1 or more Michigan railways that is owned or under the control of the governmental agencies establishing the council.

(b) Pursuant to an agreement under section 72105, operate and maintain that portion of 1 or more Michigan railways that is located on state owned land.

(c) Coordinate the enforcement of railway rules and regulations and other applicable laws and ordinances, including permitted uses of the railway on railways owned or under the control of the governmental agencies establishing the council or, pursuant to an agreement under section 72105, railways that are located on state owned land.

(d) Receive any grant made from the fund or other funding related to that portion of a Michigan railway within its jurisdiction.

(e) Acquire or hold real property for the purpose of operating a Michigan railway.

(f) Perform other functions consistent with this part.

(4) A council may be dissolved by the governmental agencies that participated in creating the council. However, if a council has entered into an agreement with the department under section 72105, the agreement shall specify how the council may be dissolved.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72107 Closure during pesticide application.

Sec. 72107. In agricultural areas, a Michigan railway may be temporarily closed by the entity operating the railway to allow pesticide application on lands adjoining the railway. The entity operating the Michigan railway shall post the closure of the railway or arrange with a landowner or other person for the posting of signs and the closure of the railway during pesticide application and appropriate reentry periods.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72108 Commission; powers.

Sec. 72108. (1) The commission may do any of the following:

(a) Grant easements or, pursuant to part 13, use permits or lease land owned by the state that is being used for a Michigan railway for a use that is compatible with the use of the Michigan railway.

(b) Enter into contracts for concessions along a state owned Michigan railway.

(c) Lease land adjacent to a state owned Michigan railway for the operation of concessions.

(2) If the commission approves of the acquisition of land by the department, the commission may state that the specified land is acquired for use as a Michigan railway. Following acquisition of land that the commission states is acquired for use as a Michigan railway, any revenue derived from that land pursuant to subsection (1), except as otherwise provided by law, shall be deposited into the fund.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Popular name: Act 451

Popular name: NREPA

324.72109 Michigan railways fund.

Sec. 72109. (1) The Michigan railways fund is created within the state treasury.

(2) Except as otherwise provided by law, the state treasurer may receive money or other assets from any of the following for deposit into the fund:

(a) Fees collected from users of railways on state forest lands.

(b) Payments to the state for easements, use permits, leases, or other use of state owned Michigan railway property.

(c) Payments to the state for concessions operated by private vendors on state owned property located on or adjacent to a Michigan railway.

(d) Federal funds.

(e) Gifts or bequests.

(f) State appropriations.

(g) Money or assets from other sources as provided by law.

(3) The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(4) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(5) Money in the fund may be expended for any of the following purposes:

(a) The expenses of the department in operating and maintaining the Michigan railway system and enforcing Michigan railway rules and regulations.

(b) Grants to or contracts with councils or governmental agencies to operate and maintain segments of Michigan railways and to enforce Michigan railway rules and regulations.

(c) Funding Michigan railway construction and improvements.

(d) Acquisition of land or rights in land.

(e) Publications and promotions of the Michigan railways system.

(6) In determining the expenditure of money in the fund, the department shall consider all of the following:

(a) The need for funding for each of the purposes listed in subsection (5).

(b) The estimated cost of Michigan railway management for each governmental agency that manages a Michigan railway, based on previous costs, railway mileage, level of use, and other relevant factors.

(c) The need of each governmental agency that manages a Michigan railway for financial assistance in managing that railway, and the amount of money from the fund received by that agency in the past.

(d) The amount of revenue accruing to the fund that is generated from each Michigan railway.

(e) Other factors considered appropriate by the department.

(7) The department shall submit a report to the legislature on or before December 1 of each year describing the use of money appropriated from the fund in the previous fiscal year.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72110 Michigan railways advisory council; creation; appointment and terms of members; vacancy; removal; meetings; quorum; conduct of business; writings; compensation and expenses; duties.

Sec. 72110. (1) The Michigan railways advisory council is created within the department of natural resources.

(2) The advisory council shall consist of the following members appointed by the commission:

(a) One individual who is involved with the establishment or operation of a multiple use railway.

(b) Two individuals who represent Michigan railway user groups.

(c) One local government official from a governmental agency in which a multiple use railway is located.

(d) One member of the general public.

(3) The members first appointed to the commission shall be appointed within 90 days after April 21, 1993.

(4) Members of the advisory council shall serve for terms of 4 years, or until a successor is appointed, whichever is later, except that of the members first appointed, 2 shall serve for 1 year, 1 shall serve for 2 years, and 1 shall serve for 3 years.

(5) If a vacancy occurs on the advisory council, the commission shall make an appointment for the unexpired term in the same manner as the original appointment.

(6) The commission may remove a member of the advisory council for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(7) The first meeting of the advisory council shall be called by the commission. At the first meeting the advisory council shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the advisory council shall meet at least annually or more frequently at the call of the chairperson or if requested by 3 or more members.

(8) A majority of the members of the advisory council constitutes a quorum for the transaction of business at a meeting of the advisory council. A majority of the members present and serving is required for official action of the advisory council.

(9) The business the advisory council may perform shall be conducted at a public meeting of the advisory council held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(10) A writing prepared, owned, used, in possession of, or retained by the advisory council in the performance of an official function is subject to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(11) Members of the advisory council shall serve without compensation. However, members of the advisory council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the advisory council.

(12) The advisory council shall do both of the following:

(a) Make recommendations to the commission and the department on the expenditure of money in the fund.

(b) Advise the commission and the department on the implementation of this act and the establishment and operation of Michigan trailways.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72111 State agencies; duties.

Sec. 72111. All state agencies shall cooperate with the commission and the department in the implementation of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72112 Rules.

Sec. 72112. The commission may promulgate rules as it considers necessary to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72113 Michigan heritage water trail program.

Sec. 72113. (1) The Great Lakes center for maritime studies at western Michigan university, in conjunction with the department, the department of history, arts, and libraries, and the Michigan 4-H youth conservation council, shall develop a plan for a statewide recognition program to be known as the "Michigan heritage water trail program". This program shall be designed to do all of the following:

(a) Establish a method for designating significant water corridors in the state as Michigan heritage water trails.

(b) Provide recognition for the historical, cultural, recreational, and natural resource significance of Michigan heritage water trails.

(c) Establish methods for local units of government to participate in programs that complement the designation of Michigan heritage water trails.

(d) Assure that private property rights along Michigan heritage water trails are not disturbed or disrupted,

or restricted by the state or local units of government.

(2) Within 1 year after the effective date of the amendatory act that added this section, the center for maritime studies at western Michigan university, in conjunction with the department, the department of history, arts, and libraries, and the Michigan 4-H youth conservation council, shall submit a copy of the plan developed under subsection (1) to the standing committees of the legislature with jurisdiction primarily pertaining to natural resources and the environment.

History: Add. 2002, Act 454, Imd. Eff. June 21, 2002.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries related to Michigan heritage water trail program to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

PART 723

TRAILS

324.72301 "Trail" defined.

Sec. 72301. As used in this part, "trail" means a right-of-way adapted to foot or horseback travel.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72302 State system of trails; master plan; development and maintenance of trails with facilities.

Sec. 72302. Within legislative appropriations, the department shall make a survey and prepare a master plan for a state system of trails with campsites and necessary facilities that takes into account points of historical interest and scenic beauty. Revisions of the plan may be made from time to time. On those parts of the trail that are not public roads, the department may prohibit motor equipment. The department may provide, develop, and maintain a system of trails with campsites and necessary facilities for the use of the public, within the appropriations made for those purposes by the legislature.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72303 Trails; gifts; grants of property interests; prison labor.

Sec. 72303. The department may accept gifts or grants of land, rights-of-way and other property. The department may use state timber, timber materials, equipment, and prison labor on lands that are under lease or use permit to it.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

RECREATIONAL TRESPASS

PART 731

RECREATIONAL TRESPASS

324.73101 Definitions; F to P.

Sec. 73101. As used in this part:

(a) "Farm product" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(b) "Farm property" means land used in the production of a farm product and all lands contained within the farm.

(c) "Fish" means game fish or nongame fish as those terms are defined in section 48701.

(d) "Fur-bearing animal" means that term as defined in section 43503.

(e) "Game" means that term as defined in section 40103.

(f) "Hunting dog" means a dog allowed to range freely to engage in or aid in hunting on the day the dog enters the property of another person.

(g) "License" means a hunting, fishing, or fur harvester's license or, in the discretion of the court, any

combination of such licenses. License does not mean a certificate, license, or permit under part 445 or 473.

(h) "Protected animal" means that term as defined in section 40103.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 546, Eff. Mar. 23, 1999.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73102 Entering or remaining on property of another; consent; exceptions.

Sec. 73102. (1) Except as provided in subsection (4), a person shall not enter or remain upon the property of another person, other than farm property or a wooded area connected to farm property, to engage in any recreational activity or trapping on that property without the consent of the owner or his or her lessee or agent, if either of the following circumstances exists:

(a) The property is fenced or enclosed and is maintained in such a manner as to exclude intruders.

(b) The property is posted in a conspicuous manner against entry. The minimum letter height on the posting signs shall be 1 inch. Each posting sign shall be not less than 50 square inches, and the signs shall be spaced to enable a person to observe not less than 1 sign at any point of entry upon the property.

(2) Except as provided in subsection (4), a person shall not enter or remain upon farm property or a wooded area connected to farm property for any recreational activity or trapping without the consent of the owner or his or her lessee or agent, whether or not the farm property or wooded area connected to farm property is fenced, enclosed, or posted.

(3) On fenced or posted property or farm property, a fisherman wading or floating a navigable public stream may, without written or oral consent, enter upon property within the clearly defined banks of the stream or, without damaging farm products, walk a route as closely proximate to the clearly defined bank as possible when necessary to avoid a natural or artificial hazard or obstruction, including, but not limited to, a dam, deep hole, or a fence or other exercise of ownership by the riparian owner.

(4) A person other than a person possessing a firearm may, unless previously prohibited in writing or orally by the property owner or his or her lessee or agent, enter on foot upon the property of another person for the sole purpose of retrieving a hunting dog. The person shall not remain on the property beyond the reasonable time necessary to retrieve the dog. In an action under section 73109 or 73110, the burden of showing that the property owner or his or her lessee or agent previously prohibited entry under this subsection is on the plaintiff or prosecuting attorney, respectively.

(5) Consent to enter or remain upon the property of another person pursuant to this section may be given orally or in writing. The consent may establish conditions for entering or remaining upon that property. Unless prohibited in the written consent, a written consent may be amended or revoked orally. If the owner or his or her lessee or agent requires all persons entering or remaining upon the property to have written consent, the presence of the person on the property without written consent is prima facie evidence of unlawful entry.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 546, Eff. Mar. 23, 1999.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73103 Discharging firearm within right-of-way of public highway abutting certain property; consent; "public highway" defined.

Sec. 73103. (1) A person shall not discharge a firearm within the right-of-way of a public highway adjoining or abutting any platted property, fenced, enclosed, or posted property, farm property, or a wooded area connected to farm property without the consent of the owner of the abutting property or his or her lessee or agent.

(2) As used in this section, "public highway" means a road or highway under the jurisdiction of the state transportation department, the road commission of a county, or of a local unit of government.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73104 Removing, defacing, or destroying sign or poster.

Sec. 73104. A person shall not remove, deface, or destroy a sign or poster that has been posted pursuant to this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73105 Posting or enclosing property.

Sec. 73105. A person shall not post a sign on property owned by another person or enclose the property of another person to prohibit hunting, fishing, trapping, or other recreational activities on that property without the written permission of the owner of that property or his or her lessee or agent.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73106 Prosecution generally; seizure and enforcement by peace officer.

Sec. 73106. (1) A prosecution under this part shall be in the name of the people of the state, shall be brought before a district court of competent jurisdiction in the county in which the offense was committed, and shall be brought within 1 year from the time the offense charged was committed.

(2) A peace officer may seize property and otherwise enforce this part upon complaint of the landowner or his or her lessee or agent.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73107 Action for injury to person on property of another; exception.

Sec. 73107. (1) Except as provided in subsection (2), a cause of action shall not arise against the owner, tenant, or lessee of property for an injury to a person who is on that property with oral or written consent but who has not paid the owner, tenant, or lessee of that property valuable consideration for the recreational or trapping use of the property, unless the injury was caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(2) A cause of action shall not arise against the owner, tenant, or lessee of property for an injury to a person who is on that property with oral or written consent and has paid the owner, tenant, or lessee valuable consideration for fishing, trapping, or hunting on that property, unless that person's injuries were caused by a condition that involved an unreasonable risk of harm and all of the following apply:

(a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.

(b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe or to warn the person of the condition or risk.

(c) The person injured did not know or did not have reason to know of the condition or risk.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73108 Enforcement and prosecution.

Sec. 73108. The prosecuting attorney for a county shall enforce this part and prosecute all persons charged with violating this part in that county. The attorney representing a municipality may enforce this part in that municipality and prosecute all persons charged with violating this part in that municipality.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73109 Violation of part; cause of action by property owner.

Sec. 73109. The owner of property on which a violation of this part is committed, or his or her lessee, may bring a cause of action against a person who violates this part for \$250.00 or actual property damages, whichever is greater, and actual and reasonable attorney fees.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 546, Eff. Mar. 23, 1999.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73110 Violation as misdemeanor; penalties.

Sec. 73110. (1) Except as provided in subsection (2), a person who violates this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$500.00, or both.

(2) A person convicted of a second or subsequent violation of this part occurring within 3 years of a previous violation of this part shall be punished by imprisonment for not more than 90 days or a fine of not less than \$250.00 or more than \$1,000.00, or both. In addition, the court shall order the person's license revoked if the person is licensed to hunt, fish, or trap in this state, and shall order the person not to seek or possess a license for the remainder of the calendar year in which the person is convicted and during at least 1 succeeding calendar year. This subsection does not apply after September 30, 2001.

(3) This subsection applies beginning October 1, 2001. A person convicted of a second or subsequent violation of this part occurring within 3 years of a previous violation of this part shall be punished by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$1,000.00, or both. In addition, the court may order the person's license revoked if the person is licensed to hunt, fish, or trap in this state, and may order the person not to seek or possess a license for not more than 3 succeeding calendar years.

(4) The court may order a person convicted of violating this part to pay the costs of prosecution.

(5) The following may be seized and forfeited in the same manner as provided in chapter 47 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709:

(a) A protected animal, a fur-bearing animal, game, or fish taken while committing any violation of this part.

(b) Property in the possession of the defendant while committing a second or subsequent violation of this part occurring within 3 years of a previous violation of this part. This subdivision does not apply to either of the following:

(i) Electronic hunting-dog-retrieval equipment.

(ii) A living or dead animal of any kind not described in subdivision (a).

(6) The court shall order a person convicted of violating this part to make restitution for any damage arising out of the violation, including, but not limited to, reimbursing this state for the value of any protected animal, fur-bearing animal, game, or fish taken while violating this part as provided in section 40119. However, the value of fish shall be determined as provided in section 48740.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1998, Act 546, Eff. Mar. 23, 1999.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

324.73111 Adoption of part as ordinance; effect of contradicting or conflicting ordinance, regulation, or resolution.

Sec. 73111. (1) A local unit of government may adopt this part as an ordinance, except that a penalty imposed for a violation of that ordinance shall not exceed the penalty authorized by law for the violation of an ordinance enacted by that local unit of government.

(2) A local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that contradicts or conflicts in any manner with this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Recreational Trespass Act

PART 733

LIABILITY OF LANDOWNERS

324.73301 Liability of landowner, tenant, or lessee for injuries to persons on property for purpose of outdoor recreation or trail use, using Michigan trailway or other public trail, gleaned agricultural or farm products, fishing or hunting, or picking and purchasing

agricultural or farm products at farm or "u-pick" operation; definition.

Sec. 73301. (1) Except as otherwise provided in this section, a cause of action shall not arise for injuries to a person who is on the land of another without paying to the owner, tenant, or lessee of the land a valuable consideration for the purpose of fishing, hunting, trapping, camping, hiking, sightseeing, motorcycling, snowmobiling, or any other outdoor recreational use or trail use, with or without permission, against the owner, tenant, or lessee of the land unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(2) A cause of action shall not arise for injuries to a person who is on the land of another without paying to the owner, tenant, or lessee of the land a valuable consideration for the purpose of entering or exiting from or using a Michigan trailway as designated under part 721 or other public trail, with or without permission, against the owner, tenant, or lessee of the land unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee. For purposes of this subsection, a Michigan trailway or public trail may be located on land of any size including, but not limited to, urban, suburban, subdivided, and rural land.

(3) A cause of action shall not arise against the owner, tenant, or lessee of land or premises for injuries to a person who is on that land or premises for the purpose of gleaning agricultural or farm products, unless that person's injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(4) A cause of action shall not arise against the owner, tenant, or lessee of a farm used in the production of agricultural goods as defined by section 35(1)(h) of the former single business tax act, 1975 PA 228, or by section 207(1)(d) of the Michigan business tax act, 2007 PA 36, MCL 208.1207, for injuries to a person who is on that farm and has paid the owner, tenant, or lessee valuable consideration for the purpose of fishing or hunting, unless that person's injuries were caused by a condition which involved an unreasonable risk of harm and all of the following apply:

(a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.

(b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe, or to warn the person of the condition or risk.

(c) The person injured did not know or did not have reason to know of the condition or risk.

(5) A cause of action shall not arise against the owner, tenant, or lessee of land or premises for injuries to a person, other than an employee or contractor of the owner, tenant, or lessee, who is on the land or premises for the purpose of picking and purchasing agricultural or farm products at a farm or "u-pick" operation, unless the person's injuries were caused by a condition that involved an unreasonable risk of harm and all of the following apply:

(a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.

(b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe, or to warn the person of the condition or risk.

(c) The person injured did not know or did not have reason to know of the condition or risk.

(6) As used in this section, "agricultural or farm products" means the natural products of the farm, nursery, grove, orchard, vineyard, garden, and apiary, including, but not limited to, trees and firewood.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2007, Act 174, Imd. Eff. Dec. 21, 2007.

Popular name: Act 451

Popular name: NREPA